

Message Text

CONFIDENTIAL

PAGE 01 TOKYO 11474 01 OF 02 301213Z

43

ACTION DLOS-06

INFO OCT-01 EUR-12 EA-07 ISO-00 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01 TRSE-00

H-02 INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05

NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

USIA-06 SAL-01 /133 W

----- 073205

R 300645Z JUL 76

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1227

INFO AMEMBASSY MOSCOW

AMEMBASSY SEOUL

USUN NEW YORK 2225

C O N F I D E N T I A L SECTION 1 OF 2 TOKYO 11474

USUN FOR USDEL LOS

E.O. 11652: GDS

TAGS: EFIS, PLOS, JA

SUBJECT: PREPARATIONS FOR AUGUST U.S. -JAPAN FISHERY NEGOTIATIONS

1. BEGIN SUMMARY. AT AUGUST U.S.-JAPAN FISHERY NEGOTIATIONS, GOJ WILL LINK CONCESSIONS ON LEGAL ISSUES WITH SUBSTANTIVE DISCUSSION OF THE FUTURE OF JAPANESE FISHERIES AND WILL INSIST ON SUBSTANTIALLY BETTER TREATMENT THAN SOVIET UNION AND NEWCOMERS TO NORTH PACIFIC FISHING. GOJ WILL SEEK FORMULAS FOR MINIMAL RECOGNITION OF U.S. JURISDICTION WHICH MAY INCLUDE A SYSTEM OF GOJ-ISSUED PERMITS WHICH MEET U.S. REQUIREMENTS AND WOULD BE ACCEPTED AS U.S. PERMITS FOR ENFORCEMENT PURPOSES.

2. EMBASSY ESTIMATES, REPORTED BELOW, OF PROBABLE GOJ POSITIONS AT AUGUST U.S.-JAPAN FISHERY NEGOTIATIONS ARE CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 11474 01 OF 02 301213Z

BASED ON RECENT CONVERSATIONS WITH GOVERNMENT AND PRIVATE

SECTOR REPRESENTATIVES, INCLUDING A MEETING BETWEEN CHARGE AND FISHERY AGENCY DIRECTOR-GENERAL UCHIMURA. (FINAL GOJ PREPARATIONS FOR TALKS BEGAN WITH JULY 27 JOINT MEETING OF RULING LIBERAL DEMOCRATIC PARTY'S FOREIGN AFFAIRS AND FISHERIES SECTIONS AND WILL INCLUDE CONSULTATIONS OVER THE NEXT TWO WEEKS BETWEEN THE MINISTRIES OF FOREIGN AFFAIRS AND AGRICULTURE).

3. JAPANESE OBJECTIVE: TO SECURE ASSURANCES OF A SATISFACTORY CATCH IN THE FORTHCOMING U.S. FISHERY CONSERVATION ZONE AND TO GAIN DEMONSTRABLY BETTER TREATMENT FROM THE U.S. THAN OTHER FISHING STATES, PARTICULARLY THE SOVIET UNION, WHILE MAKING MINIMUM LEGAL CONCESSIONS RECOGNIZING U.S. FISHERY MANAGEMENT AUTHORITY IN A FORM WHICH DOES LEAST DAMAGE TO JAPANESE INTERESTS VIS-A-VIS OTHER COASTAL STATES AND WHICH IS TOLERABLE TO THE DIET AND PUBLIC OPINION.

4. U.S. OBJECTIVES: (A) TO GAIN JAPANESE ADHERENCE TO A GIFA WHICH IS ACCEPTABLE TO CONGRESS (OR, FAILING THIS, TO MAKE SUFFICIENT PROGRESS IN THE NEGOTIATIONS TO CREATE A STRONG CASE FOR AMENDMENTS TO THE LAW WHICH WOULD ENABLE CONCLUSION OF AN AGREEMENT WITH JAPAN.) (B) TO PREVENT THE FISHERIES ISSUE FROM DAMAGING OUR OVERALL RELATIONS WITH JAPAN.

5. COURSE OF THE NEGOTIATIONS: JAPANESE DELEGATES WILL CONTINUE TO ARGUE, AS IN THE JUNE TALKS, THAT U.S. FISHERY ACT IS CONTRARY TO INTERNATIONAL LAW BUT AT THE SAME TIME WILL MAKE A CASE FOR PREFERENTIAL TREATMENT WITHIN THE TERMS OF THE LAW. THE JAPANESE SEE NEGOTIATIONS AS HAVING TWO PARTS, "LEGAL" AND "SUBSTANCE", AND WILL RESERVE ON LEGAL ISSUES UNTIL DISCUSSION OF FUTURE OF JAPANESE FISHERIES HAS BEEN COMPLETED TO THEIR SATISFACTION. RIGHTLY OR WRONGLY, JAPANESE OFFICIALS WHO PARTICIPATED IN RECENT TALKS WITH USG IN WASHINGTON AND MONTREAL BELIEVE THAT U.S. IS TAKING MORE INFLEXIBLE STANCE THAN THE NEW LAW REQUIRES. THIS MAY REFLECT CONFUSION AND/OR FRUSTRATION RE THE LAW ITSELF AND MISTAKEN BELIEF THAT U.S. OFFICIALS HAVE

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 TOKYO 11474 01 OF 02 301213Z

THE SAME FLEXIBILITY IN ADMINISTERING LAWS THAT TRADITION HAS ACCORDED TO JAPANESE BUREAUCRATS.

6. HOPE SEEMS TO REMAIN THAT HIGH POLICY-LEVEL U.S. OFFICIALS, WHO HAVE DEEP CONCERN FOR OVERALL U.S.-JAPAN RELATIONS AND A SPECIAL UNDERSTANDING OF THE IMPORTANCE OF FISHERIES TO JAPAN, CAN BE INDUCED TO INTERVENE AND EFFECT MAJOR COMPROMISES. THUS THE U.S. SIDE MAY STILL

HAVE SOME WORK TO DO IN MAKING CLEAR WHERE THE LAW AND ITS ADMINISTRATION CANNOT BE MODIFIED OR ENFORCEMENT DELAYED. AT SAME TIME, EMBASSY BELIEVES IT WOULD BE USEFUL FOR U.S. DEL TO MAKE SPECIAL EFFORT EARLY IN THE TALKS TO POINT UP AREAS WHERE POSSIBILITIES FOR FLEXIBLE ARRANGEMENTS EXIST AND TO DEMONSTRATE THAT THE U.S. VIEWS THE FISHERIES PROBLEM IN A BROAD CONTEXT WHICH INCLUDES THE NORTH ASIAN SECURITY SITUATION. (EMBASSY STRONGLY URGES THAT SENIOR EA BUREAU OFFICIAL PARTICIPATE IN NEGOTIATIONS TO ASSURE THE JAPANESE THAT GENERAL U.S. FOREIGN POLICY CONCERNS ARE GETTING DUE ATTENTION.)

7. THE ATMOSPHERE OF TALKS AND JAPANESE SENSE OF ENGAGING IN DIALOGUE COULD BE ENHANCED BY USING JAPANESE DRAFT PROVISIONS AS MUCH AS POSSIBLE AND ENCOURAGING THEM TO FIND NEW FORMULATIONS AND LANGUAGE TO BRIDGE THE DIFFICULTIES.

8. LEGAL ISSUES: GOJ WILL CONTINUE TO ASSERT THAT THERE IS A CONSTITUTIONAL REQUIREMENT TO SUBMIT GIFA TO DIET IF IT IS TO GO INTO EFFECT BEFORE THE LOS CONFERENCE FORMALLY ESTABLISHES 200-MILE COASTAL STATE FISHERY JURISDICTION AS A PRINCIPLE OF INTERNATIONAL LAW. JAPANESE MAY SEARCH FOR A MIDDLE GROUND ON WHICH THEY CAN RECOGNIZE U.S. FISHERY MANAGEMENT AUTHORITY (AS THEY DO NOW, FOR EXAMPLE, FOR SALMON EAST OF THE 175 DEGREE WEST ABSTENTION LINE) IN A FASHION WHICH STOPS SHORT OF ACKNOWLEDGEMENT OF EXCLUSIVE U.S. FISHERY JURISDICTION. IN THIS REGARD, USG ISSUANCE OF FISHING PERMITS DIRECTLY TO JAPANESE VESSELS AND U.S. COURT

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 TOKYO 11474 02 OF 02 300843Z

43

ACTION DLOS-06

INFO OCT-01 EUR-12 EA-07 ISO-00 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01 TRSE-00

H-02 INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05

NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

USIA-06 SAL-01 /133 W

----- 070751

R 300645Z JUL 76

FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 1228
INFO AMEMBASSY MOSCOW
AMEMBASSY SEOUL
USUN NEW YORK 2226

CONFIDENTIAL SECTION 2 OF 2 TOKYO 11474

JURISDICTION OVER JAPANESE NATIONALS, AS MATTERS WHICH GO BEYOND THE MERE TECHNIQUES OF FISHERIES MANAGEMENT, WILL POSE PARTICULARLY SERIOUS DIFFICULTIES FOR THE GOJ. JAPANESE ARE ESPECIALLY ANXIOUS TO AVOID ACCEPTING FORMS OF U.S. JURISDICTION OVER JAPANESE NATIONALS WHICH JAPAN WOULD BE HESITANT TO IMPOSE ON SOVIET NATIONALS IN JAPAN'S COASTAL FISHING AREA. JAPANESE OFFICIALS BELIEVE U.S. WILL HAVE TO MAKE SOME CONCESSIONS ON THESE POINTS BOTH LEGALLY AND IN PRACTICAL TERMS. THE QUESTION OF COURT JURISDICTION IS EXPECTED TO ENCOUNTER THE MOST RESISTANCE IN THE DIET, WHERE, IN ADDITION TO THE OPPOSITION, A NUMBER OF LDP MEMBERS FIRMLY OPPOSE THE IMPLIED LOSS OF JAPANESE SOVEREIGNTY. CONCERNING PERMITS, ONE SUGGESTION IS AN ARRANGEMENT VIA A LEGAL FICTION WHEREBY PERMITS ISSUED BY THE GOJ CAN BE RECOGNIZED AS U.S. PERMITS FOR ENFORCEMENT PURPOSES. THE JAPANESE ALSO BELIEVE THAT CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 11474 02 OF 02 300843Z

THE PERMIT SYSTEM MAY BE TECHNICALLY IMPOSSIBLE TO ADMINISTER EXACTLY AS WRITTEN IN THE LAW (UNLESS ITS REAL PURPOSE IS TO PREVENT FISHING THAN TO PERMIT IT IN AN ORDERLY MANNER). THE LENGTH OF TIME REQUIRED FOR APPROVAL, NON-TRANSFERABILITY (THERE ARE FREQUENT CHANGES IN OWNERSHIP OF JAPANESE FISHING VESSELS), AND THE SETTING OF QUOTAS AND FISHING RESTRICTIONS INDIVIDUALLY FOR EACH BOAT (INCLUDING EACH CATCHERBOAT IN A FACTORYSHIP FLEET) HAVE BEEN CITED AS EXAMPLES OF HIGHLY UNECONOMIC PROVISIONS IN THE LAW FOR WHICH PRACTICAL SOLUTIONS WILL HAVE TO BE FOUND. GOJ OFFICIALS BELIEVE REASONABLE ACCOMMODATION CAN BE REACHED ON FEES.

9. EMBASSY COMMENT: PERMIT AND FEE SYSTEMS, WHICH WILL REQUIRE A NUMBER OF IMPLEMENTING REGULATIONS PROMULGATED WITHIN THE EXECUTIVE BRANCH, APPEAR TO US TO BE THE AREA WHERE THERE IS GREATEST POSSIBILITY

FOR ACCOMMODATIONS FROM OUR SIDE WHICH WILL OFFER
JAPANESE FISHING INDUSTRY ASSURANCES OF A STABLE
BUSINESS ENVIRONMENT IN WHICH IT CAN PLAN AHEAD AND
OPERATE EFFICIENTLY. END COMMENT.

10. QUOTAS: JAPANESE IN BOTH GOVERNMENT AND INDUSTRY
HAVE MADE IT CLEAR THAT A SATISFACTORY QUOTA LEVEL IS THE
KEY TO GETTING A POLITICAL DECISION TO OVERRULE THE
LEGALISTS AND ACCEPT THE NEW U.S. REGIME. JAPAN, WHILE
APPARENTLY WILLING TO ACCEPT LANGUAGE INDICATING THAT
U.S. UNILATERALLY DETERMINES THE QUOTA, WILL SEEK U.S.
COMMITMENT TO CONTINUE FULL DRESS BILATERAL NEGOTIATIONS,
INCLUDING SCIENTIFIC SESSIONS, AS HAVE BEEN CONDUCTED IN
THE PAST AND MAY ALSO PRESS FOR INCLUSION OF CLAUSE,
SIMILAR TO LOS TEXT, OBLIGATING U.O G TO RENOUNCE
MEASURES WHICH WOULD CAUSE DISLOCATION TO JAPANESE FISHING
INDUSTRY AND SUDDEN LOSS OF LIVELIHOOD TO FISHERMEN
TRADITIONALLY DEPENDENT ON U.S. FISHERY ZONE. JAPANESE WILL
ARGUE THAT THEY HAVE BEEN CONSCIENTIOUS FISHERY CON-
SERVATIONISTS, COOPERATING WITH THE U.S. IN THIS
ENDEAVOR FOR 25 YEARS, AND THAT JAPAN'S ACHIEVEMENTS AS
DISCOVERER AND DEVELOPER OF RESOURCES, ITS RECORD IN
SCIENTIFIC RESEARCH AND ENFORCEMENT, AND ITS ROLE AS
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 TOKYO 11474 02 OF 02 300843Z

AMERICA'S ALLY AND MOST STABLE PARTNER IN THE PACIFIC
PLACE JAPAN ON A SEPARATE AND HIGHER "MORAL" PLANE
FROM THE OTHER NORTH PACIFIC FISHING STATES--A
SITUATION WHICH MUST BE RECOGNIZED BY QUOTAS AND FISHING
CONDITIONS WHICH ARE ACCEPTABLE IN AN ABSOLUTE SENSE
AND ALSO CLEARLY MORE FAVORABLE THAN THOSE ENJOYED BY
THE SOVIETS AND THE LATECOMERS TO NORTH PACIFIC FISHING.
THE SOVIET ISSUE, WE HAVE BEEN WARNED, IS PARTICULARLY
SENSITIVE, AND U.S. TREATMENT OF JAPAN IN SAME MANNER
AS SOVIETS COULD LEAVE GOJ POLITICAL LEADERSHIP IN AN
UNTENABLE POSITION VIS-A-VIS ITS ANTI-AMERICAN OPPONENTS.
GOJ ALSO CAN BE EXPECTED TO MAKE A POINT OF ITS VOLUNTARY
CUTBACK OF JAPAN'S 1976 POLLACK CATCH BY 100,000 METRIC
TONS AND TO ASK FOR AN APPROPRIATE REASSESSMENT OF THE
CONDITION OF THE STOCK. QUOTAS, IF RELATIVELY LARGE,
COULD MAKE LEGAL CONCESSIONS EASIER FOR JAPANESE. SMALL
QUOTAS WOULD SERIOUSLY COMPLICATE AGREEMENT ON LEGAL
PROVISIONS ON ANY TERMS.

11. INTERIM ARRANGEMENTS: GOJ IS QUITE CERTAIN THAT IT
WILL BE IMPOSSIBLE TO HAVE A NEW AGREEMENT IN PLACE BY
MARCH 1, 1977, AND BELIEVES BOTH SIDES WILL HAVE TO
SERIOUSLY CONSIDER INTERIM ARRANGEMENTS FOR JAN-FEB AND
FOR THE PERIOD FROM MARCH 1 UNTIL BOTH COUNTRIES HAVE
COMPLETED THEIR INTERNAL APPROVAL PROCEDURES. (IN

RECENT CONVERSATION WITH JAPAN COUNTRY DIR SHERMAN, FONOFF
NORTH AMERICAN BUREAU DIRECTOR SPOKE OF HAVING AGREEMENT
READY TO SUBMIT TO DIET IN JANUARY OR FEBRUARY--A PERIOD
WHEN DIET IS COMPLETELY PREOCCUPIED WITH BUDGET DEBATE.)
ONCE THEY HAVE AGREED TO THE LEGAL CONCESSIONS NECESSARY
FOR A FORMAL AGREEMENT JAPANESE WILL EXPECT CONCESSIONS
FROM U.S. IN ORDER TO CONCLUDE INTERIM ARRANGEMENTS WHICH
WILL NOT REQUIRE THEIR RECOGNITION OF U.S. JURISDICTION,
PERMITS OR FEES, ALL COMMITMENTS WHICH THE DIET HAS TO
RATIFY.

12. SALMON: GOH HAS CONCLUDED THAT U.S. LAW PRESENTS
SUCH DIFFICULT PROBLEMS FOR SALMON THAT A SEPARATE
AGREEMENT WILL HAVE TO BE MADE. IT BELIEVES U.S. IS
ALSO THINKING ALONG THESE LINES.

SHOESMITH
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 TOKYO 11474 02 OF 02 300843Z

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FISHING AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976TOKYO11474
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760294-1244
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976072/aaaaabtf.tel
Line Count: 299
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 12 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 APR 2004 by greeneet>; APPROVED <13 APR 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PREPARATIONS FOR AUGUST U.S. -JAPAN FISHERY NEGOTIATIONS
TAGS: EFIS, PLOS, JA, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006